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## ENROLLED BILL ANALYSIS

**BILL NUMBER:** Senate Bills 414 (H-3), 415 (H-3), and 981 (H-2)

**TOPIC:** Insurance Coverage for Treatments of Autism; Senate Bill 414 (H-3) and Senate Bill 415 (H-3) and the Creation of the Incentive Program Reimbursing Insurance Carriers for Coverage for Diagnosis and Treatment of Autism  
Senate Bill 981 (H-2)

**SPONSOR:** Senators Green SB 414 (H-3), Hunter SB 415 (H-3), and Richardville SB 981 (H-2)

**CO-SPONSORS:** Senate Bill 414 (H-3) and Senate Bill 415 (H-3);  
Senators Caswell, Richardville, Emmons, Gleason, Smith, Whitmer, Bieda, Young, Hood, Gregory, Johnson, Pappageorge, Booher, Warren, Anderson, Brandenburg, Hopgood, Kowall and Marleau  
  
Senate Bill 981 (H-2);  
Senators Green, Marleau, Booher, Kahn, and Hunter

**COMMITTEE:** House Families, Children and Seniors

**Analysis Done By:** Office of Financial and Insurance Regulation (OFIR)  
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### DATE OF COMPLETED ANALYSIS

April 4, 2012

### SHORT SUMMARY/HIGHLIGHTS OF THE BILL

Senate Bills 414 (H-3) and SB 415 (H-3) require Blue Cross Blue Shield of Michigan, health maintenance organizations, and insurers to provide coverage for the diagnosis and treatment of autism spectrum disorders (ASDs), on par with other

health benefits, subject to certain annual limits as determined by the age of the insured individual receiving the benefits.

Senate Bill 981 (H-2) creates the autism coverage reimbursement program, administered by the Department of Licensing and Regulatory Affairs, to reimburse carriers and third party administrators for the cost of providing the coverage required pursuant to Senate Bills 414 (H-3) and 415 (H-3).

### **ADMINISTRATION POSITION**

The Administration supports this legislation.

### **PROBLEM/BACKGROUND**

The National Institutes of Health indicates that Autism Spectrum Disorders (ASDs) generally fall into three broad categories:

- Autistic disorder (also called “classic” autism);
- Asperger syndrome; and
- Pervasive Developmental Disorder - Not Otherwise Specified (PDD-NOS) (or atypical autism).
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The ASDs are usually classified as developmental disabilities because the symptoms typically manifest themselves before age three and because they cause delays or problems in many different skills that arise from infancy to adulthood. The United States Department of Health and Human Services (HHS) defines developmental disabilities as “severe, life-long disabilities attributable to mental and/or physical impairments which manifest themselves before the age of 22 years and are likely to continue indefinitely. They result in substantial limitations in three or more of the following areas:

- self-care;
- comprehension and language skills (receptive and expressive language);
- learning;
- mobility;
- self-direction;
- capacity for independent living;
- economic self-sufficiency; and
- the ability to function independently without coordinated services (continuous need for individually planned and coordinated services).”

It is difficult to be precise about the prevalence of ASDs; however, the most recent estimate from the Centers for Disease Control and Prevention (CDC) is that 1 out of every 88 children has been identified with an ASD. Given the vast numbers of

diagnoses, the CDC considers ASD an important public health concern. While many of the health insurers, health maintenance organizations, and nonprofit healthcare corporations cover services that fall under treatments prescribed to individuals with ASDs, Applied Behavior Analysis treatment has typically not been included in health benefit packages due to inconsistencies in data related to the treatment efficacy and that the cost has been deemed prohibitive by employers and insurers.

Currently, the Autism Society estimates that the lifetime cost of caring for a child with autism ranges from \$3.5 million to \$5 million, and that the United States is facing almost \$90 billion annually in costs for autism (this figure includes research, insurance costs and non-covered expenses, Medicaid waivers for autism, educational spending, housing, transportation, employment, in addition to related therapeutic services and caregiver costs); sixty percent of the costs are for adult services, the cost to Michigan alone is estimated to be \$56 billion. All costs associated with autism spectrum disorders are expected to grow due to the increased prevalence of ASD diagnoses along with advanced technologies and treatment therapies. The Autism Society maintains that costs of lifelong care can be reduced by 2/3 with early diagnosis and intervention.

## **DESCRIPTION OF BILL**

Senate Bills 414 (H-3) and 415 (H-3) require Blue Cross Blue Shield of Michigan, health maintenance organizations (HMOs) and insurers to provide coverage for the diagnosis and treatment of ASDs. Diagnosis includes assessments, evaluations, or tests performed by a licensed physician or psychologist. Treatment means evidence-based treatment determined to be medically necessary for an individual diagnosed with an ASD, including behavior health treatment, pharmacy, psychiatric, psychological and therapeutic care. Coverage is to be provided on par with other health benefits and may be subject to annual limits.

Senate Bill 981 (H-2) creates an autism incentive fund under which carriers and TPAs providing autism benefits can apply for reimbursement of claims paid for the diagnosis and treatment of autism spectrum disorders required pursuant to Senate Bills 414 (H-3) and 415 (H-3). The reimbursement program will be administered by the Department of Licensing and Regulatory Affairs with the fund being held by the Department of Treasury. The reimbursement program will be established and funded through annual appropriations with not more than 1 percent of the annual appropriations being used for the purpose of administering the program.

Carriers and TPAs will be able to access funds through an application process through which claim verification will be required to assure that claims were paid and that the paid claims were for services that use current protocols and cost-containment practices. Eligibility for claim reimbursement for autism-related

services is limited to services provided by a licensed physician or a licensed psychologist. The department will have 30 days to approve or deny carriers or TPA's application for reimbursement.

If, due to a shortfall in the reimbursement fund, a carrier was not fully reimbursed for paid claims in a fiscal year, and the carrier increases its rates in the following year to cover the total amount of unreimbursed paid claims, the rate increase will not be considered reimbursement or compensation for paid claims under the autism reimbursement program, if the commissioner determines that the rate increase is a reasonable recoupment of the amount of unreimbursed paid claims.

## **SUMMARY OF ARGUMENTS**

### **Pro**

If insurance coverage were available for the diagnosis and treatment of autism, fewer families would face financial disaster as they cope with the day to day expenses of raising an autistic child. The financial impact of having a child with an autistic disorder not only affects the autistic child, but also the entire family's quality of life (i.e., parents and other siblings).

Although the early diagnosis and intervention would add costs to health carriers' claims expenses initially, it is anticipated that over a person's lifetime the total cost to society and the health carrier would be significantly reduced.

The ability to obtain reimbursement from the autism coverage reimbursement program will provide relief from the potential financial impact of the coverage mandate. In addition, since third party administrators may also seek recoupment from the reimbursement program, health plans that are not affected by the mandate will be encouraged to also provide coverage for autism.

This legislation will ensure certainty in the diagnosis and treatment delivery system for individuals with ASDs. This legislation is the best option to ensure the autism population is receiving quality treatment from providers. Many Michigan college graduates in the health services sector and those from other states will be provided with the incentive to remain in or relocate to Michigan, proving beneficial to families receiving ASD services as well as to Michigan as a whole.

### **Con**

Senate Bill 414 (H-3) and SB 415 (H-3) only address the treatment of autism. Many individuals and organizations, including the National Alliance on Mental Health and the Michigan Psychiatric Society, believe Michigan needs to enact mental health parity so all conditions related to mental health will be treated on par with physical health conditions.

Senate Bill 981(H-2) permits insurers, health maintenance organizations, and nonprofit health care corporations to increase health insurance rates when the carrier does not receive its full reimbursement for paid ASD claims due to a shortfall in the autism reimbursement fund in the prior fiscal year; the rate increase will not be considered reimbursement or compensation for paid claims. The law does not limit when carriers may submit an application for reimbursement. As the law is currently written, health insurance providers could increase health insurance rates based, in part, on claims paid for ASD services and when the autism coverage reimbursement program is funded, the carrier may “double-dip” and submit an application for reimbursement from the fund.

### **FISCAL/ECONOMIC IMPACT**

**Are there revenue or budgetary implications in the bill to the –**

**(a) Department**

**Budgetary:** Senate bill 981 (H-2) will have a significant budgetary impacts on the Department of Licensing and Regulatory Affairs. Costs related to staff and resources will be incurred in the development of the claim reimbursement application, verification of claims information, verification of treatment protocols, and in the application determination process. The department will incur costs for the administration of the autism incentive program and will impact the department’s budget by an amount estimated to be \$500,000, which does not include start up costs.

**Revenue:**

**Comments:**

**(b) State**

**Budgetary:** None

**Revenue:**

**Comments:**

**(c) Local Government:** None

**Comments:**

## **OTHER STATE DEPARTMENTS**

The Department of Treasury will be impacted by this legislation as the fund is established in Treasury.

## **ANY OTHER PERTINENT INFORMATION**

Groups supporting Senate Bills 414 (H-3), 415 (H-3), and 981 (H-3) include Michigan Health & Hospital Association, Autism Alliance of Michigan, Michigan Psychiatric Society, Michigan State Medical Society, Hope Network, Association for Children's Mental Health, Citizens for Prison Reform, Michigan Music Therapists, Henry Ford Health System Autism Center, Michigan State Board of Education, Beaumont Health Systems, Health Policy Committee, National Alliance on Mental Illness, Autism Speaks, Michigan Partners for Parity, Eastern Michigan University, Regional Interagency Consumers Committee, Michigan State University - College of Education, Kalamazoo Regional Interagency Consumer Committee, and many parents and other family members involved in some aspect of ASDs.

Opposition for the bills came from the Michigan Manufacturers Association, Economic Alliance for Michigan, Small Business Association of Michigan, Michigan Chamber of Commerce, Association for Children's Mental Health, as well as other Michigan citizens, including parents of children with mental health conditions. Much of the citizen opposition was based on the need for full mental health parity; the business community was averse to a new health insurance mandate.

According to Autism Speaks, a leading autism science and advocacy organization, as of February 2012, 29 states have enacted autism insurance reform laws; eight, including Michigan have endorsed autism insurance reform bills and six states are pursuing autism insurance reform in 2012.

## **ADMINISTRATIVE RULES IMPACT**

Senate Bills 414 (H-3) and 415 (H-3) amend the Nonprofit Health Care Corporation Reform Act and the Michigan Insurance Code, respectively. The OFIR has general rulemaking authority under the Nonprofit Health Care Corporation Reform Act, 1980 PA 350, and the Insurance Code of 1956, 1956 PA 218.

## **FINAL PASSAGE VOTE**

Senate Bills 414 (S-3) and 415 (S-3) initially passed the Senate on March 13, 2012, with 29 yea votes and 9 nay votes.

The House passed H-3 versions of both bills on March 29, 2012, with 91 yea votes and 19 nay votes. Senate Bills 414 (H-3) and 415 (H-3) were returned and concurred in by the Senate on March 29, 2012, with 29 yea votes and 9 nay votes. The bills were given immediate effect. Senate Sill 414 (3) is tie-barred to Senate Bills 415 (H-3) and 981 (H-2).

Senate Bill 981 (H-2) was returned and concurred in by the Senate on March 29, 2012, with 28 yea votes and 10 nay votes. The bill was given immediate effect.

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Kevin Clinton  
Commissioner

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Date